

Senate Study Bill 3009

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
HUMAN RESOURCES BILL
BY CHAIRPERSON VEENSTRA)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to causing the death of or serious injury to an
2 unborn child and providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5559YC 80
5 pf/pj/5

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1 1 Section 1. Section 707.7, Code 2003, is amended to read as
1 2 follows:
1 3 707.7 FETICIDE == VOLUNTARY MANSLAUGHTER OF AN UNBORN
1 4 CHILD.
1 5 1. For the purposes of this section:
1 6 a. "Another" means the unborn child or any human being
1 7 other than the person committing the act.
1 8 b. "Forcible felony" means forcible felony as defined in
1 9 section 702.11.
1 10 c. "Great bodily harm" includes, but is not limited to,
1 11 permanent disability or disfigurement.
1 12 d. "Unborn child" means the offspring of a human being,
1 13 from conception until birth.
1 14 e. "Without lawful justification" means acting under
1 15 circumstances in which the use of lethal force is not legally
1 16 justified.
1 17 2. Any person who intentionally ~~terminates a human~~
1 18 ~~pregnancy, with the knowledge and voluntary consent of the~~
1 19 ~~pregnant person, after the end of the second trimester of the~~
1 20 ~~pregnancy where and without lawful justification causes the~~
1 21 ~~death of the fetus results an unborn child commits feticide-~~
1 22 ~~if the person does any of the following:~~
1 23 a. ~~Intends to cause the death of or do great bodily harm~~
1 24 ~~to another or knows that the person's acts will cause great~~
1 25 ~~bodily harm to another, resulting in the death of an unborn~~
1 26 ~~child.~~
1 27 b. ~~Knows that the person's acts create a strong~~
1 28 ~~probability of death or great bodily harm to another,~~
1 29 ~~resulting in the death of an unborn child.~~
1 30 c. ~~Attempts to commit or commits a forcible felony,~~
1 31 ~~resulting in the death of an unborn child.~~
1 32 d. ~~Perpetrates an act eminently dangerous to another and~~
1 33 ~~evinces a depraved mind, without regard to human life or the~~
1 34 ~~life of an unborn child, resulting in the death of an unborn~~
1 35 ~~child.~~
2 1 Feticide is a class "C" felony.
2 2 Any person who ~~attempts to intentionally terminate a human~~
2 3 ~~pregnancy, with the knowledge and voluntary consent of the~~
2 4 ~~pregnant person, after the end of the second trimester of the~~
2 5 ~~pregnancy where death of the fetus does not result commits~~
2 6 ~~attempted feticide. Attempted feticide is a class "D" felony.~~
2 7 3. Any person who without lawful justification causes the
2 8 death of an unborn child is guilty of voluntary manslaughter
2 9 of an unborn child if the person does any of the following:
2 10 a. Causes the death of another as the result of sudden,
2 11 violent, and irresistible passion resulting from serious
2 12 provocation sufficient to excite such passion in a person and
2 13 there is not an interval between the provocation and the
2 14 killing in which a person of ordinary reason and temperament
2 15 would regain control and suppress the impulse to kill,
2 16 resulting in the death of an unborn child.
2 17 b. Commits or attempts to commit a misdemeanor offense
2 18 with such force or violence that the death of or great bodily
2 19 harm to another was reasonably foreseeable, resulting in the
2 20 death of an unborn child.
2 21 c. Intends to cause the death of an unborn child because
2 22 the person is coerced by threats and the threats cause the

2 23 person to reasonably believe that the person's act is the only
2 24 means of preventing imminent death to the person or another,
2 25 resulting in the death of an unborn child.
2 26 Voluntary manslaughter of an unborn child is a class "C"
2 27 felony.
2 28 4. This section shall not apply to the termination of a
2 29 human pregnancy performed the causing of the death of an
2 30 unborn child by a physician licensed in this state to practice
2 31 medicine or surgery when in the best clinical judgment of the
2 32 physician the termination causing of the death of the unborn
2 33 child is performed to preserve the life or health of the
2 34 pregnant person or of the fetus unborn child and every
2 35 reasonable medical effort not inconsistent with preserving the
3 1 life of the pregnant person is made to preserve the life of a
3 2 viable fetus unborn child.
3 3 5. Any person who terminates a human pregnancy causes the
3 4 death of an unborn child, with the knowledge and voluntary
3 5 consent of the pregnant person, who is not a person licensed
3 6 to practice medicine and surgery under the provisions of
3 7 chapter 148, or an osteopathic physician and surgeon licensed
3 8 to practice osteopathic medicine and surgery under the
3 9 provisions of chapter 150A, commits a class "C" felony.
3 10 Sec. 2. Section 707.8, Code 2003, is amended to read as
3 11 follows:
3 12 707.8 NONCONSENSUAL TERMINATION KILLING OF AN UNBORN CHILD
3 13 == SERIOUS INJURY TO A HUMAN PREGNANCY AN UNBORN CHILD.
3 14 1. A person who terminates a human pregnancy kills an
3 15 unborn child without the consent of the pregnant person during
3 16 the commission of a forcible felony is guilty of a class "B"
3 17 felony.
3 18 2. A person who terminates a human pregnancy kills an
3 19 unborn child without the consent of the pregnant person during
3 20 the commission of a felony or felonious assault is guilty of a
3 21 class "C" felony.
3 22 3. A person who intentionally terminates a human pregnancy
3 23 kills an unborn child without the knowledge and voluntary
3 24 consent of the pregnant person is guilty of a class "C"
3 25 felony.
3 26 4. A person who unintentionally terminates a human
3 27 pregnancy kills an unborn child by any of the means provided
3 28 pursuant to section 707.6A, subsection 1, is guilty of a class
3 29 "C" felony.
3 30 5. A person who by force or intimidation procures the
3 31 consent of the pregnant person to a termination of a human
3 32 pregnancy kill an unborn child is guilty of a class "C"
3 33 felony.
3 34 6. A person who unintentionally terminates a human
3 35 pregnancy kills an unborn child while drag racing in violation
4 1 of section 321.278 is guilty of a class "D" felony.
4 2 7. A person who unintentionally terminates a human
4 3 pregnancy kills an unborn child without the knowledge and
4 4 voluntary consent of the pregnant person by the commission of
4 5 an act in a manner likely to cause the termination death of or
4 6 serious injury to a human pregnancy an unborn child is guilty
4 7 of an aggravated misdemeanor.
4 8 8. A person commits an aggravated misdemeanor when the
4 9 person intentionally causes serious injury to a human
4 10 pregnancy an unborn child by the commission of an act in a
4 11 manner likely to cause the termination death of or serious
4 12 injury to a human pregnancy an unborn child.
4 13 9. A person commits an aggravated misdemeanor when the
4 14 person unintentionally causes serious injury to a human
4 15 pregnancy an unborn child by any of the means described in
4 16 section 707.6A, subsection 1.
4 17 10. A person commits a serious misdemeanor when the person
4 18 unintentionally causes serious injury to a human pregnancy an
4 19 unborn child by the commission of an act in a manner likely to
4 20 cause the termination death of or serious injury to the human
4 21 pregnancy unborn child.
4 22 11. For the purposes of this section "serious:
4 23 a. "Serious injury to a human pregnancy an unborn child"
4 24 means, relative to the human pregnancy unborn child, disabling
4 25 mental illness, or bodily injury which creates a substantial
4 26 risk of death or which causes serious permanent disfigurement,
4 27 or protracted loss or impairment of the function of any bodily
4 28 member or organ, and includes but is not limited to skull
4 29 fractures, rib fractures, and metaphyseal fractures of the
4 30 long bones.
4 31 b. "Unborn child" means the offspring of a human being,
4 32 from conception to birth.
4 33 12. As used in this section, actions which cause the

4 34 ~~termination death~~ of or serious injury to ~~a pregnancy an~~
4 35 ~~unborn child~~ do not apply to any of the following:
5 1 a. An act or omission of the pregnant person.
5 2 b. A ~~termination death~~ of or a serious injury to ~~a~~
5 3 ~~pregnancy an unborn child~~ which is caused by the performance
5 4 of an approved medical procedure performed by a person
5 5 licensed in this state to practice medicine and surgery or
5 6 osteopathic medicine and surgery, irrespective of the duration
5 7 of the pregnancy and with or without the voluntary consent of
5 8 the pregnant person when circumstances preclude the pregnant
5 9 person from providing consent.
5 10 c. An act committed in self-defense or in defense of
5 11 another person or any other act committed if legally justified
5 12 or excused.
5 13 Sec. 3. Section 707.9, Code 2003, is amended to read as
5 14 follows:
5 15 707.9 MURDER OF ~~FETUS UNBORN CHILD~~ ABORTED ALIVE.
5 16 A person who intentionally kills a viable ~~fetus unborn~~
5 17 ~~child~~ aborted alive shall be guilty of a class "B" felony.
5 18 Sec. 4. Section 707.10, Code 2003, is amended to read as
5 19 follows:
5 20 707.10 DUTY TO PRESERVE THE LIFE OF THE ~~FETUS UNBORN~~
5 21 ~~CHILD~~.
5 22 A person who ~~performs or induces a termination~~ causes the
5 23 death of a human pregnancy an unborn child and who willfully
5 24 fails to exercise that degree of professional skill, care, and
5 25 diligence available to preserve the life and health of a
5 26 viable ~~fetus unborn child~~ shall be guilty of a serious
5 27 misdemeanor. For the purpose of this section, "unborn child"
5 28 means the offspring of a human being, from conception to
5 29 birth.

5 30 EXPLANATION

5 31 This bill amends portions of the Code relating to feticide,
5 32 nonconsensual termination, murder of a fetus aborted alive,
5 33 and the duty to preserve the life of the fetus.

5 34 The bill amends Code section 707.7, relating to feticide.
5 35 Currently, the Code section provides that a person who
6 1 intentionally terminates a human pregnancy with the knowledge
6 2 and voluntary consent of the pregnant person after the end of
6 3 the second trimester and death of the fetus results commits
6 4 feticide, which is a class "C" felony. Additionally, the Code
6 5 section currently provides that a person who attempts to
6 6 intentionally terminate a human pregnancy with the knowledge
6 7 and voluntary consent of the pregnant person after the end of
6 8 the second trimester and death of the fetus does not result
6 9 commits attempted feticide, which is a class "D" felony.

6 10 The bill changes these provisions under Code section 707.7
6 11 so that a person commits feticide if the person intentionally
6 12 and without lawful justification causes the death of an unborn
6 13 child without limitation as to the length of the pregnancy,
6 14 and meets one of four other elements, resulting in the death
6 15 of an unborn child: intends to cause the death of or do great
6 16 bodily harm to another or knows that the person's acts will
6 17 cause great bodily harm to another; knows that the person's
6 18 acts create a strong probability of death or great bodily harm
6 19 to another; attempts to commit or commits a forcible felony;
6 20 or perpetrates an act eminently dangerous to another and
6 21 evinces a depraved mind, without regard to human life or the
6 22 life of an unborn child.

6 23 The bill eliminates the provision under Code section 707.7
6 24 related to attempted feticide, but adds a provision relating
6 25 to voluntary manslaughter of an unborn child. Under the bill,
6 26 a person commits voluntary manslaughter of an unborn child if
6 27 the person, without lawful justification, causes the death of
6 28 an unborn child, and meets one of three other elements,
6 29 resulting in the death of an unborn child: causes the death
6 30 of another as a result of sudden and violent passion resulting
6 31 from serious provocation without an interval to regain
6 32 control; commits or attempts to commit a misdemeanor offense
6 33 with such force or violence that the death of or great bodily
6 34 harm to another was reasonably foreseeable; or intends to
6 35 cause the death of an unborn child because the person is
7 1 coerced by threats and the threats cause the person to
7 2 reasonably believe that the person's act is the only means of
7 3 preventing imminent death to the person or another. Voluntary
7 4 manslaughter of an unborn child is a class "C" felony.

7 5 The bill also changes the terminology used in Code section
7 6 707.7 of "terminating a human pregnancy" to "causing the death
7 7 of an unborn child" and "fetus" to "unborn child".

7 8 The bill amends Code section 707.8, relating to
7 9 nonconsensual termination and serious injury to a human

7 10 pregnancy. The bill changes the terminology of "terminating a
7 11 human pregnancy" to "killing an unborn child".
7 12 The bill defines terms including "another", "forcible
7 13 felony", "great bodily harm", "unborn child", and "without
7 14 lawful justification".
7 15 The bill also makes conforming changes in Code section
7 16 707.9, relating to murder of a fetus aborted alive, by
7 17 replacing the term "fetus" with "unborn child" and in Code
7 18 section 707.10, relating to the duty to preserve the life of
7 19 the fetus, by replacing the term "termination of a human
7 20 pregnancy" with "causes the death of an unborn child" and
7 21 "fetus" with "unborn child".
7 22 LSB 5559YC 80
7 23 pf/pj/5